

Department of Conservation

MAINE LAND USE REGULATION COMMISSION

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Reestablishment of Commission Jurisdiction

Chapter 17 of the Commission's Rules

Effective Date: August 14, 1992

Amended Effective: October 17, 2000

Chapter 17 Reestablishment of Commission Jurisdiction

17.01 Authority

- A. 12 M.R.S.A. section 685-A(4) states in part that any plantation or municipality which adopts planning, zoning and subdivision control as provided in Title 30-A, section 7059, shall be continued to be regulated by the Commission until such time as the plantation or municipality adopts land use plans and regulations not less protective of the existing natural, recreational or historic resources than those adopted by the Commission. Upon obtaining approval, the plantation or municipality shall thereafter adopt, administer and enforce the approved plans, maps, regulations and standards.
- B. 12 M.R.S.A. section 685-A(4) provides that the Commission review from time to time the administration and enforcement of local land use plans and regulations by plantations and municipalities which have adopted land use plans, maps, regulations and standards approved by the Commission. If, following the review, the Commission finds that any of the following have occurred, the Commission may reestablish its jurisdiction over that plantation or municipality:
- (1) a plantation or municipality has repealed the land use plan, maps, standards or regulations necessary to satisfy the requirements of the Commission's land use laws, regulations or standards or has substantially modified the land use plan, maps, standards or regulations so that the resources of the plantation or municipality are not reasonably protected;
 - (2) a plantation or municipality has abolished or does not have functioning the administrative bodies and officers necessary to implement the land use program as approved by the Commission, normally a planning board, board of appeals and code enforcement officer; or
 - (3) a plantation or municipality has not administered or enforced its land use program in a manner which reasonably protects the resources in the plantation or municipality involved.

The action by the Commission must conform with the provisions for rulemaking of the Maine Administrative Procedure Act, Title 5, chapter 375.

17.02. Purpose

This rule reestablishes the jurisdiction of the Maine Land Use Regulation Commission in those municipalities and plantations where the Commission has found that one or more of the conditions for reestablishing jurisdiction set forth in 12 M.R.S.A. section 685-A(4) has occurred in the plantation or municipality.

17.03 Applicability and Effective Date of Reestablished Jurisdiction

The Commission has found that one or more of the conditions set forth in 12 M.R.S.A. section 685-A(4) has occurred in each municipality and plantation identified below and has concluded reestablishment of the Commission's jurisdiction in that municipality or plantation is necessary to reasonably protect the natural, recreational, historic or other resources of the municipality or plantation and to extend the principles of sound planning, zoning and subdivision control to the municipality or plantation:

A. Brighton Plantation, Somerset County

- (1) Brighton Plantation, located in Somerset County, had been granted plantation status under Maine law. Brighton Plantation did not administer its own land use planning and regulatory program. Instead, the Commission carried out those functions in lieu of local government.
- (2) In accordance with 12 M.R.S.A. section 685-A(4), Brighton Plantation submitted to the Commission a Comprehensive Land Use Plan, zoning ordinance including standards and land use subdistricts, and a land use district boundary map(s) for the plantation. In February 1987, the Commission approved the plan, ordinance and map(s).
- (3) On May 12, 1990, the Plantation adopted its Comprehensive Land Use Plan, zoning ordinance and map(s) that earlier had been approved by the Commission. Thus the plantation removed itself from the Commission's jurisdiction on May 12, 1990 and began administering its local land use program.
- (4) On March 28, 1992, at an annual meeting of the plantation, Brighton Plantation abolished its planning board and voted to return to the jurisdiction of the Maine Land Use Regulation Commission. The plan and ordinance were not repealed at that time although the plantation lacks the administrative body necessary to review and act upon zoning or permit applications or carry out other necessary provisions of the land use plan and ordinance in the plantation. At a special plantation meeting held on May 19, 1992, Brighton Plantation reaffirmed its decision of March 28, 1992.
- (5) The Commission had reestablished jurisdiction over Brighton Plantation effective August 14, 1992. Subsequently, Brighton Plantation submitted an updated Comprehensive Land Use Plan and Land Use Zoning Ordinance to the Commission in 1995. The Commission approved this Plan and Ordinance on June 15, 1995. Brighton Plantation adopted these updated versions of its Comprehensive Land Use Plan and Land Use Zoning Ordinance on July 20, 1995, and resumed land use control effective on the same date

17.04 Jurisdiction Reestablished

- A. The Commission reestablishes its jurisdiction over the municipalities and plantations identified in section 17.03 above and adopts a Land Use Guidance Map(s) for those areas.
- B. The municipalities and plantations identified in section 17.03 above are subject to the plans, maps, regulations, standards and other requirements of the Commission.
- C. This reestablishment of jurisdiction supersedes any Commission prior approval of such municipalities' and plantations' plan, ordinance and map(s).

Authority: 12 M.R.S.A. section 681 et seq.

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